



Kentucky Labor Cabinet

LABOR WORKS

Independence Day July 4

US Flag Facts

For more than 200 years, the American flag has been the symbol of our nation's strength and unity. It's been a source of pride and inspiration for millions of citizens. The American Flag has been a prominent icon in our national history. Following are the highlights of its unique past.

On January 1, 1776, the Continental Army was reorganized in accordance with a Congressional resolution which placed American forces under George Washington's control.

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Greetings

Secretary J.R. Gray

On behalf of our excellent staff and our compliment of capable and dedicated employees who comprise the Kentucky Labor Cabinet, it is my pleasure to welcome you to the inaugural edition of the Kentucky Labor Cabinet newsletter.

As you are aware, the Kentucky Labor Cabinet has the duty to enforce the laws and regulations within our Commonwealth, which are designed to protect our most valued resource – our working men and women.

It is our intent to periodically report to you with regard to happenings within our Cabinet or items that relate to our mission and our activities, which we hope you will find to be interesting, informative, and useful to labor, management, and our workers.

Our Cabinet has jurisdiction in the areas of mediation, apprenticeship, wages, hours, overtime, rest periods and child

labor, along with the safety and health of Kentucky's workforce.

It will remain our objective to provide vigorous, yet fair, enforcement of all laws and regulations, while providing our employers with the tools, technical assistance, and advice to enable compliance. The philosophy of the Cabinet is a preference to recognize and commend employers and employees for their contributions rather than to cite them for non-compliance.

The annual Labor/Management Conference, Governors Safety and Health Conference and Apprentice Conference, have contributed greatly toward fostering and maintaining good labor/management relations, safer and healthier workplaces and economic growth in Kentucky. It will likewise remain our goal to continue our efforts in these important areas.



★ Secretary J.R. Gray ★

All of us in the Kentucky Labor Cabinet wish you the best and welcome your comments and submissions.

**Minimum Wage
Increases To
\$7.25
On July 1, 2009**

Kentucky Apprenticeship Conference
September 13-14, 2009
Kentucky Labor Management Conference
September 15-17, 2009
Kentucky Dam Village State Resort Park
For more information, visit our website at www.labor.ky.gov

*Deputy Secretary Mark Brown*

Flag Facts

On that New Year's Day 1776, the Continental Army was laying siege to Boston which had been taken over by the British Army. Washington ordered the Grand Union flag hoisted above his base at Prospect Hill. It had 13 alternate red and white stripes and the British Union Jack in the upper left-hand corner (the canton).

In May 1776, Betsy Ross reported that she sewed the first American flag.

On June 14, 1777, in order to establish an official flag for the new nation, the Continental Congress passed the first Flag Act: "Resolved, That the flag of the United States be made of thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field, representing a new Constellation."

Between 1777 and 1960, Congress passed several acts that changed the shape, design, and arrangement of the flag and allowed for additional stars and stripes to be added to reflect the admission of each new state.

Welcome

Welcome to the inaugural edition of the Kentucky Labor Cabinet newsletter. We hope to use this as a means of communication with employers and employees and other interested parties to help achieve the mission of our Cabinet.

I have had the opportunity in the last one and a half years to travel the state and recognize the achievements in safety and health of many companies. It is apparent that both the employers and employees of the major companies across Kentucky realize the importance of this endeavor.

From Fulton to Pikeville and from Covington to Middlesboro, safety in the workplace has become a top priority.

Governor Beshear and Secretary Gray have made protecting Kentucky's working men and women a top priority of this administration.

Although we are experiencing unprecedented economic challenges, the Kentucky Labor Cabinet continues to provide high quality professional safety and health assistance to employers throughout the Commonwealth.

Deputy Secretary Mark Brown

Our safety and health consultants are top-notch and our partnership programs are available at no cost. Visit our Education and Training page on our website to learn more about how we can help you with workplace safety and health.

Kentucky has long been known as a leader in worker productivity. It is our goal to make Kentucky's workforce a leader in safety as well.

Thanks for reading our newsletter and we welcome your comments and suggestions.

Heat Stress

Unfortunately, hundreds of heat-related deaths occur each year in the United States. Kentucky is well known for high summer temperatures and humidity, two of the primary components that contribute to heat-related deaths and illnesses. Employers whose employees work in high temperature environments must be vigilant to ensure their employees are protected from the hazards associated with heat stress.

Much information is available relating to heat stress and the measures that can be taken to prevent it. Visit the Occupational Safety and Health Administration's website at <http://www.osha.gov/SLTC/heatstress/index.html> or the National Institute for

Occupational Safety and Health website at <http://www.cdc.gov/niosh/hotenvt.html> to learn more. Rather than repeat what has already been said, the Labor Cabinet would like to highlight a few points.

Education is vital to prevent excessive heat stress. Implementation of proper workplace controls and work practices can prevent heat stress. The ability to recognize the signs and symptoms associated with heat stress, should it occur, can save lives.

Provision of adequate water supplies is also crucial. Most individuals exposed to hot conditions drink fewer fluids than needed because of an insufficient thirst drive. A worker should not depend on

thirst to signal when and how much to drink. Instead, the worker should drink five to seven ounces of fluids every 15 to 20 minutes to replenish necessary fluids in the body. Regular rest breaks also aid workers in hot environments, whether their heat exposure occurs indoors or out.

Finally, heat stress is not the only hazard associated with outdoor work during the summer months. It is also necessary to protect employees from the harmful ultraviolet (UV) rays of the sun. This is easily accomplished through regular use of sunscreen and wearing clothing that provides UV protection.

Workplace Standards

Commissioner Mike Dixon

I am very pleased to welcome you to the first edition of **Labor Works**. The Department of Workplace Standards is certain that this format will further broaden our communications with both employers and employees within the Commonwealth.

The Department of Workplace Standards is primarily known for its protection of the working citizens of the Commonwealth. It offers protection through the Division of Occupational Safety and Health Compliance which conducts routine inspections of

businesses and industries to ensure the well-being of employees. Protection is afforded through the Division of Occupational Safety and Health Education and Training which provides instruction to employers and employees on how to keep their workplace safe on a daily basis as well as how to properly respond to hazardous situations. Employees may also be protected by the Division of Employment Standards, Apprenticeship and Mediation that responds to claims of wage and hour, child labor and prevailing wage law violations.

While this is true, the Department of Workplace Standards is also an invaluable resource for employers and employees for its guidance through the many, and often times overwhelming, employment laws. Information is readily available through our website at www.labor.ky.gov/ows.

However, our staff is always ready to assist and is just an email or phone call away. General questions regarding OSH law may be directed to 502-564-3535 and questions regarding wage and hour law may be directed to 502-564-3534.



Commissioner Mike Dixon

H1N1 Influenza

In light of recent questions and concerns voiced by employers and employees about the H1N1 Influenza virus (swine flu), the Kentucky Occupational Safety and Health (OSH) Program reiterates and highlights the following information.

The Centers for Disease Control (CDC) recommends the use of several hygienic practices to reduce the potential of contracting the virus which include:

- Frequent hand washing;
- Covering your mouth when coughing;
- Refraining from touching your eyes, nose, or mouth; and
- Individuals should stay home if sick.

You may find more information specifically about the H1N1 virus from CDC and the Kentucky Department for Public Health at:

<http://www.cdc.gov/swineflu>; and

<http://healthalerts.ky.gov/swineflu>.

The use of N95 respirators for protection against H1N1 is recommended by the CDC. The Kentucky OSH Program reminds employers the respiratory protection requirements found at 29 Code of Federal Regulations (CFR) 1910.134, adopted by 803 Kentucky Administrative Regulation 2:308, are applicable to N95 respirators. It is important to note that 29 CFR 1910.134 differentiates between voluntary and required respirator use and has requirements addressing both. Additionally, the Occupational Safety and Health Administration and the Kentucky OSH Program differentiate between a surgical mask and a respirator.

Please contact the Division of Education and Training or an OSH Standards Specialist at (502) 564-3070 with any questions.

Act of January 13, 1794 - provided for 15 stripes and 15 stars after May 1795.

Act of April 4, 1818 - provided for 13 stripes and one star for each state, to be added to the flag on the 4th of July following the admission of each new state, signed by President Monroe.

Executive Order of President Taft dated June 24, 1912 - established proportions of the flag and provided for arrangement of the stars in six horizontal rows of eight each, a single point of each star to be upward.

Executive Order of President Eisenhower dated August 21, 1959 - provided for the arrangement of the stars in nine rows of stars staggered horizontally and eleven rows of stars staggered vertically.

Today the flag consists of thirteen horizontal stripes, seven red alternating with 6 white. The stripes represent the original 13 colonies, the stars represent the 50 states of the Union.

The colors of the flag are symbolic as well: Red symbolizes Hardiness and Valor, White symbolizes Purity and Innocence and Blue represents Vigilance, Perseverance and Justice.



Commissioner Dwight T. Lovan

The Department of Workers' Claims is charged with overseeing the Kentucky Workers' Compensation Program as set forth in Kentucky Revised Statutes Chapter 342. The Department is part of the Labor Cabinet and is under the leadership of Commissioner Dwight T. Lovan, who assumed this responsibility in February 2008. In his years of law practice, Commissioner Lovan represented both injured workers and employers in workers' compensation actions. In 1990, Mr. Lovan was appointed as an administrative law judge for the Department of Workers' Claims. In 1994, he was appointed to be a member of the Kentucky Workers' Compensation Board and served in that position for 9-1/2 years, including four years as chairman.

The Department of Workers' Claims has approximately 165 employees, the majority of whom are at the main office at 657 Chamberlin Avenue, Frankfort, KY. Additionally, the Department has approximately 55 employees in field offices throughout the state.

Workers' Claims

Commissioner Dwight T. Lovan

This includes enforcement officers and administrative law judges and staffs. The administrative law judges have statutory responsibility of hearing litigated workers' compensation claims and rendering decisions in those claims. Hearings take place at 12 different locations within the Commonwealth, and the administrative law judges rotate through each of these areas. Approximately 5000 litigated claims are assigned to the administrative law judges in each calendar year. If an individual is displeased with the decision of the administrative law judge, that decision can be appealed to the Kentucky Workers' Compensation Board.

The Kentucky Workers' Compensation Act mandates any employer with one or more employees maintain workers' compensation insurance, self-insurance, or be a part of a self-insurance group. Enforcement officers who are located throughout the state periodically visit employers asking to see a copy or proof of workers' compensation insurance. In addition, insurance companies notify the Department when they provide workers' compensation coverage to an employer. A database is maintained in the Frankfort office so enforcement officers and others can periodically check an employer's name and determine if they continue to maintain workers' compensation insurance. Employers who fail to maintain workers'

compensation insurance are subject to fines, restraining orders preventing their continuing to do business, or both. The Department issues approximately 75 to 100 citations per month for employers who fail to maintain workers' compensation insurance. In 2008 alone, an excess of \$1 million in fines were collected from employers who failed to maintain coverage. The key to this process from the point of view of the Department is to ensure that employers comply with the law, providing an individual employee adequate protection should an injury occur.

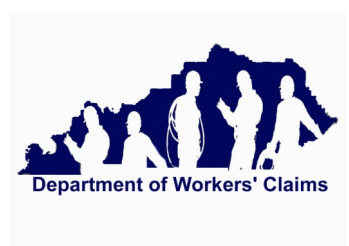
Employers or their insurance companies are required to notify the Department when an individual has sustained an injury at work and missed more than one day of work. This document is called a "first report of injury" and is submitted electronically to the Department. In the last five years, Kentucky has averaged approximately 40,000 first reports of injury each year. An injured worker who is required to miss more than seven days of work is entitled to receive what are known as "income benefits." If an employee sustains an injury and is required to completely miss work on a temporary basis, after missing seven days they will begin receiving what is known as "temporary total disability benefits." Upon missing two weeks of employment, they will receive "temporary total disability benefits"

retroactive to the first day of missed work. In addition to indemnity benefits, employees who have been injured are entitled to receive medical treatment for the care of their injury or disease to the extent that it is causally related to the work injury.

The Division of Ombudsman and Workers' Compensation Specialist Services is available to answer questions concerning the Workers' Compensation Act and the rights and responsibilities of both workers and employers. These individuals can be accessed through a toll-free line at 800-554- 8601.

Additional information concerning the Department of Workers' Claims is available through the Department's website which can be accessed through the Labor Cabinet's website. The Department's website includes a benefits calculator, forms that are available in printable format and general information about each of the Department's divisions and responsibilities.

Like all of the Labor Cabinet, the Department of Workers' Claims is a service organization and is readily available to address questions and issues in its area of responsibility.





Employment Standards Information

MINIMUM WAGE

The Division of Employment Standards, Apprenticeship and Mediation has received a flurry of inquiries regarding the upcoming minimum wage increase. Many are confused regarding the start date of this increase. It is true that the federal minimum wage increase does not begin until July 24, 2009; however, this is merely the deadline for all states to comply with the new federal minimum wage rate. Kentucky's legislature chose to enact the minimum wage rate increase to begin at an earlier time. Therefore, **on July 1, 2009, Kentucky's minimum wage rate will rise to \$7.25 per hour** as per KRS 337.275. The minimum wage rate for tipped employees will remain at \$2.13 per hour.

SUMMERTIME! SUMMERTIME!

School is out and many teens are turning in their homework for timecards! Child labor laws can often be confusing. Here are some key points for employers and parents to keep in mind regarding summer employment:

Hours:	Until Labor Day, minors age 14/15 years may only work between the hours of 7:00 a.m. and 9:00 p.m. While on summer break, minors age 16/17 years have no hourly restrictions.
Shifts:	Minors age 14/15 years may work a MAXIMUM of 8 hours per day/40 hours per week. Minors age 16/17 years are not restricted to a maximum number of hours.
Lunches:	NO MINOR may work more than 5 continuous hours without receiving at least a 30 minute, duty-free lunch break.
Rest Periods:	KRS 337.365 also requires that all employees receive at least a 10-minute, paid break for every 4 hours worked in addition to their lunch period.
Work Permits:	Minors are NOT required to obtain a work permit in the Commonwealth of Kentucky.
Employer Responsibilities:	A copy of the minor's proof of age must be kept on file at the place of business. All lunch breaks (beginning and ending times) must be documented by the employer. A copy of the KY Child Labor Law poster must be posted.

In addition to the above, minors are also prohibited from working in certain hazardous industries or with certain dangerous materials/equipment. Please refer to the KY Child Labor Laws poster for a description of these duties.

If you as the minor, a parent, or the employer have any questions about any child labor laws, please feel free review our website or contact our office for clarification.

Top 10 Most Frequently Cited Federal Standards In All Construction

Standard Cited	Total Violations
1. 1926.451 – General Requirements	10,139
2. 1926.501 – Duty To Have Fall Protection	7,018
3. 1926.1053 – Ladders	3,018
4. 1926.503 – Training Requirements	2,186
5. 1910.1200 – Haz Com	2,122
6. 1926.453 – Aerial Lifts	2,030
7. 1926.020 – General Safety And Health Provisions	1,899
8. 1926.651 – Specific Excavation Requirements	1,850
9. 1926.100 – Head Protection	1,755
10. 1926.454 – Training Requirements	1,513

On June 2, 2008, Kentucky Governor Steve Beshear signed Executive Order 2008-472, which re-established the Kentucky Labor Cabinet, effective June 16, 2008. The purpose of the reorganization was to streamline state services and concentrate limited resources on frontline regulatory activity. The duties, personnel, and budgets of all organizational entities within, attached to, or associated with the former Department of Labor in the Environmental and Public Protection Cabinet were transferred to the Labor Cabinet, headed by a secretary appointed by the Governor.



Partnership

Danny Vernon, Partnership Branch Manager

The Kentucky Labor Cabinet, Division of Occupational Safety and Health (OSH) Education and Training proudly offers several partnership program opportunities to companies in general industry and construction. These partnership programs include many benefits for a company seeking recognition for an exemplary safety and health program, or for a company who may be struggling with workplace safety and health issues and needs assistance. All partnership programs are free of charge and are administered by the Partnerships Branch within the Division of OSH Education and Training.

For companies who value safety and health in the workplace and already have well established, highly-functional, and successful safety and health management systems in place, there are three programs available that will recognize and reward these companies for their efforts and diligence in keeping workplace safety as a top priority. These programs include: the Voluntary Partnership Protection program (VPP), the Voluntary Partnership Protection program for Construction (VPPC), and the Safety and Health Achievement Recognition Program (SHARP). It should be noted that presently, Kentucky is one of only five states with the VPPC in place and operational.

VPP and VPPC are nationally-renowned, highly respected and sought after programs that are designed to recognize the "best of the best" in respect to safety and health management systems. A company interested in achieving recognition in either VPP or VPPC must first go through a detailed written application process and have an injury/illness rate below the national average for its industry. If the application is accepted, the company will then undergo a multi-phase, highly-detailed, on-site survey process that includes a written programs/paperwork review and a facility/job-site hazard analysis. After the company successfully completes this step and when problems that were identified during the process have been verified as corrected, the

company is then recognized as having achieved VPP or VPPC. Companies who achieve VPP or VPPC are deferred from any general scheduled compliance inspections for three years. More importantly, these companies are able to strengthen an already strong safety and health management system and to advance their programs to an even higher level.

SHARP is another nationally-recognized and highly sought after partnership. SHARP is designed more for the small employer who has a good safety and health management system in place in conjunction with low injury and illness rates (below their industry's national average), but might have trouble meeting the requirements of VPP. Because of the success of this recognition program, the size limitation in most cases has been lifted and most companies may now apply for SHARP regardless of number of employees. Many companies are now using SHARP as a stepping stone towards achieving VPP. SHARP also has the benefit of deferral from any general scheduled compliance inspections for up to three years. SHARP is only available to companies in general industry and is not available in construction.

The Division of Education and Training also offers partnerships to companies who may be struggling with safety and health, and/or want more continuous, on-site consultation to help identify and correct deficiencies. For general industry, we offer the Safety Partnership Program (SPP), and for construction we offer the Construction Partnership Program (CPP). These programs are designed to work with the participating companies over the course of many months/years, helping make their worksites safer while strengthening their safety and health management systems.

For more information on the above programs, please contact Danny Vernon, Partnership Branch Manager, at 502-564-4118 or danny.vernon@ky.gov.



FREE

Population Center Training Schedule

July 13-17

Gilbertsville
Kentucky Dam Village
State Resort Park
113 Administration Dr.

August 10-14

Louisville
IBEW Local 369
4315 Preston Hwy. #120

September 21-25

Danville
Inter-County Energy
Community Room
1009 Houstonville Rd.

October 12-16

Ashland
KCTCS
1460 College Drive

These training series are presented by the Labor Cabinet at NO COST to the participant. Please visit www.labor.ky.gov for more information.





General Counsel

David O'Brien Suetholz



*General Counsel
David O'Brien Suetholz*

My name is David O'Brien Suetholz, and I am the General Counsel for the Kentucky Labor Cabinet. It is an honor to introduce the Office of the General Counsel and the work that we do in this first edition of the Labor Cabinet newsletter.

The mandate of the Kentucky Labor Cabinet, under the Kentucky Revised Statutes (hereinafter "KRS") 336 et seq., is to protect the working women and men of Kentucky and to promote harmonious industrial relations. The Office of the General Counsel is the legal arm of the Cabinet and is responsible for enforcing KRS 207 (prohibition of discrimination based on disability or the human immunodeficiency virus); KRS 337 (wage and hour, prevailing wage and prohibition of sex discrimination), KRS 338 (occupational safety and health), KRS 339 (child labor), KRS 343 (apprenticeship and training), KRS 67C.400 to 418 (collective bargaining for police officers) and KRS 345 (collective bargaining for firefighters).

The majority of our work is the prosecution of wage and hour, prevailing wage, and occupational safety and health violations. Our office is currently staffed by twelve dedicated men and women who regularly field questions from Cabinet staff and the general public. We strive to accomplish the goal of Secretary Gray and Governor Beshear to promote healthy working environments and to assist Kentucky's employers in reaching that goal. Though we are the prosecutors for violations of the laws listed above, we try to provide clear interpretations of Kentucky's labor laws so that the important businesses of the Commonwealth can avoid infractions.

We are pleased to use this newsletter to inform workers and employers about developments and interpretations of Kentucky's labor laws. The first two are as follows:

1. Posting Requirements under the "prevailing wage" statute KRS 337.530(3) requires that the prevailing wage rates be posted in conspicuous places for covered projects. In the past, some employers have posted the rates inside of work trailers only.

The regulation 803 KAR 1:120 was revised this spring to require posting of prevailing wage rates at the main site entrance of the work project in English and in the language of non-English speaking employees working on the project.

The Labor Cabinet will supply materials in Spanish upon request by an employer.

2. The Kentucky Supreme Court, in an unpublished opinion Bravo Development v. Scot Singleton, indicated that the standard release forms used by the Labor Cabinet for wage and hour settlements would be sufficient to bar private litigation if the complainant signed the Cabinet's waiver and cashed the check for unpaid wages. This case is unpublished and, therefore not binding for future actions, but may be instructive for workers who may access the Cabinet for assistance and then change their minds in the future.

The Kentucky OSH Program exercises jurisdiction over all private and public sector employers and employees within the State except private sector maritime activities, Tennessee Valley Authority facilities, military personnel, U.S. Postal Service employees, employees working at properties ceded to the U.S. government, employees of the federal government, and issues of field sanitation and temporary labor camps in agriculture, except for agricultural temporary labor camps associated with egg, poultry, or red meat production, or the post harvest processing of agricultural or horticultural commodities. See 29 CFR 1952.235.

**Copies of this newsletter, along with
Statutes, Regulations, statistics and any
other information regarding the
Kentucky Labor Cabinet
can be found on our website at:
www.labor.ky.gov**

Labor Works is a quarterly publication of the Kentucky Labor Cabinet, 1047 U.S Highway 127 South, Suite 4, Frankfort KY 40601 . Phone 502-564-3070
For submissions and suggestions, please email mike.donta@ky.gov

No information published herein should be construed as substituting for policy directives sent through regular channels to personnel.

If you would like your name added or removed from our mailing list, please visit our website at www.labor.ky.gov and choose the "subscribe to our newsletter" link.



AMA Guide Adoption

Deputy Commissioner Wayne Logan
Department of Workers' Claims

In Kentucky, permanent-partial disability is paid based on a mathematical formula which includes the use of a rating assessed in accordance with American Medical Association Guidance to the Evaluation of Functional Impairment. Several statutory provisions mandate the use of the "latest edition available". From 2001 until December 2007, the latest was the fifth edition. In December 2007 the AMA published the sixth edition. The sixth edition provided not only impairment numbered changes but also the methodology for the assessment of impairment ratings. Significant concern was raised about the alterations and many states chose not to adopt the sixth edition. The issue was brought to the Kentucky General Assembly in its 2008 Regular Session, and the General Assembly passed Senate Bill 199.

Senate Bill 199 directed the Commissioner of the Department of Workers' Claims to study the feasibility and advisability of adopting the sixth edition of "The Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or retain usage of the fifth edition of the publication. In conducting the study, the Commissioner shall seek the input of groups representing labor, industry, commerce, and the medical and legal professions. This act concluded by requiring the Commissioner to submit to the Legislative Research Commission a report of findings by January 5, 2009.

Commissioner Lovan issued his findings and identified the various groups with whom both the pros and cons of the fifth and sixth editions were discussed. The Commissioner also concluded with a recommendation that the fifth edition remain the controlling edition until further considerations are studied. This study would include the mathematical formula for the computation of income benefits used with all aspects of the delivery of medical benefits in the workers' compensation system. Both indemnity benefits and medical benefits make up the totality of payments under workers' compensation. Since, at present, the overall cost to the system is more greatly impacted by medical expenses than income and indemnity benefits it

seemed illogical to address just a portion of the overall cost of the system.

The Commissioner further noted that compensation in the workers' compensation system consists of two elements, income benefits and medical benefits. Income benefits include temporary total disability benefits, permanent-partial disability benefits and permanent-total disability benefits. In litigated claims, the greatest number of claims involves permanent-partial disability, which is computed using a mathematical formula including the impairment rating assigned pursuant to the AMA Guides. There were numerous potential problems which could occur with a transition to the sixth edition, i.e. including lower income benefits to the injured worker, a reduction of the number of physicians who would be willing to perform evaluations, assessing a term based upon a methodology, and the potential of creating a larger disparity between the cost of medical benefits and income benefits.

This report was presented verbally by the Commissioner to the Legislature before the House Labor and Industry Committee in February 2009. Ultimately, the Legislature in the 2009 Regular Session adopted a new act similar to Senate Bill 199. This House bill concluded with a statement requiring the Commissioner to continue to study the issues surrounding the sixth edition during the remainder of calendar year 2009 and make a report to the Legislative Research Commission by the first day of the Regular 2010 Session. It is anticipated the Legislature will again address the issues surrounding the use of the AMA guides during the 2010 Session.



Deputy Commissioner
Wayne Logan

Nearly 40 years after the Occupational Safety and Health Act was enacted to protect workers, organized labor and some members of Congress say the government's regulations are in need of an overhaul.

According to the Bureau of Labor Statistics, some 6000 Americans are killed annually in workplace accidents — more than 15 a day — and millions more are injured. But a study conducted by the AFL-CIO, using data from the Occupational Safety and Health Administration (OSHA), found that the average fine for deadly violations is only \$11,300. Peg Seminario, the union's director of safety and health, says, "that under current law, fish, horses, and wild burros have stronger protections from harm than workers. That's an outrage, and it needs to change."

OSHA's records show that workplace violations increased 6.4 percent to 89,000, from 2003 through 2007.

**More than 15
people a day die
in workplace
accidents.**

Serious violations were up 12 percent— to 67,000— during that same period.

Representative Lynn Woolsey (D. Calif) says, "penalties are shockingly low," amounting to a "slap on the wrist for killing or injuring a worker." Even in the most egregious cases, employers rarely face criminal prosecution, she adds.

Woolsey, who chairs the House subcommittee on workforce protections, has introduced legislation that would greatly increase both civil and criminal penalties for violations of OSHA rules. The maximum fine for willful and repeated violations, including those causing death, would increase from \$70,000 to \$250,000. Maximum jail time for willful violations that result in death would go from two years to 20 years.

(reprinted from June 09 Parade magazine)

The “Big Four” Construction Industry Hazards

There are numerous hazards that can lead to serious injury or death in the construction trades. The hazards addressed below are the top four (4) causes of construction-related injuries and fatalities based on OSHA statistical data.

Falls

According to OSHA statistics, falls are the leading cause of fatalities in the construction industry, accounting for one-third of all construction-related deaths. Consequently, it becomes extremely important that employers develop and implement safety programs and training measures that will ensure worker safety from fall hazards on the job. The following hazards are the causes of most of the fall-related injuries and fatalities in construction work:

- (a) Unprotected sides, wall openings, and floor holes;
- (b) Improper scaffold construction;
- (c) Unguarded protruding steel rebar; and
- (d) Misuse of portable ladders.

Struck By

Being struck by objects is another leading hazard that causes injury and death to construction workers. OSHA reports that 75 percent of struck-by fatalities involve heavy equipment such as trucks and cranes. In fact, one (1) of every four (4) struck-by vehicle deaths involves construction workers. Safety and health programs must take into account the many ways struck-by accidents can occur. The most common are:

- (a) Vehicles;
- (b) Falling/flying objects; and
- (c) Constructing masonry walls.

The latter must not be overlooked because of the danger caused by the tremendous loads that must be supported. Also, a worker should never be positioned between moving and fixed objects, and should wear high-visibility clothes near equipment/vehicles.

Caught-In/Between

Excavation and trenching hazards generally belong in the caught-in/between category with cave-ins being perhaps the most feared trenching hazard. However, other hazards do exist which include asphyxiation due to lack of oxygen in a confined space, inhalation of toxic vapors, and electrocution or explosions when workers contact underground utilities. According to OSHA statistics, the fatality rate for excavation work is 112 percent higher than for general construction. The following are responsible for most excavation and trenching injuries:

- (a) No protective system;
- (b) Failure to inspect the trench and protective systems;
- (c) Unsafe spoil-pile placement; and
- (d) Unsafe access/egress.

All excavations five (5) feet or deeper must be provided an adequate protective system. Excavations fewer than five (5) feet deep also require a protective system unless examination of the ground by a competent person provides no indication of a potential cave-in. Make sure the trench is protected either by sloping, shoring, benching, or a trench shield system.

Note: Competent person means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Electrocution

According to OSHA statistics, there are approximately 350 electrical-related deaths each year in the construction industry. Since electricity is such an essential and familiar part of the workplace and the environment, employees may get somewhat careless and fail to treat it with the respect that is deserved and required. The following hazards are the most frequent causes of electrical injuries:

- (a) Contact with power lines;
- (b) Lack of ground-fault protection;
- (c) Path to ground missing or discontinuous;
- (d) Equipment not used in the manner prescribed; and
- (e) Improper use of extension and flexible cords.

Here are some basic electrical tenets to follow:

Always locate and identify utilities before starting work and look for overhead power lines when operating any equipment.

Maintain a safe distance away from power lines as required by the safe distance requirements.

Do not operate portable electric tools unless they are grounded or double insulated.

Use ground-fault circuit interrupters for protection.

Be alert to electrical hazards when working with ladders, scaffolds or other platforms.

Follow the manufacturer's specifications, limitations, and recommendations.

